

# **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

## **Minutes**

**November 19, 2002**

The Capital Projects and Bond Oversight Committee met on Tuesday, November 19, 2002, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Jodie Haydon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jodie Haydon, Chair; Senator Robert Leeper, Vice Chair; Senator Bob Jackson; and Representatives Robert Damron and Paul Marcotte.

Guests testifying before the committee: Tom Denton, Murray State University; Glenn Mitchell and Armond Russ, Finance and Administration Cabinet; Bill Hintze, Governor's Office for Policy and Management; Bob Bender, Department of Parks; Charles Bush, Department of Fish and Wildlife Resources; Roger Recktenwald, Eastern Kentucky Exposition Center Corporation; Ken Clevidence and Dall Clark, University of Kentucky; and Terry Fugate, Office of Financial Management.

LRC Staff: Mary Lynn Collins, Pat Ingram, Nancy Osborne, Kevin Mason, and Shawn Bowen.

Representative Marcotte welcomed a group of his constituents, the Young in Spirit Seniors, visiting from his district in Union, Kentucky.

Senator Jackson made a motion to approve the minutes of the October 15 meeting as submitted. The motion was seconded by Senator Leeper and passed by voice vote.

Chairman Haydon called on Ms. Mary Lynn Collins, Committee Staff Administrator, to review correspondence and information items. Ms. Collins said included in members' folders were correspondence from the Council on Postsecondary Education relating to the Council's review and approval of various capital projects, the Kentucky Lottery Corporation's monthly financial report for September 2002, and a staff update on various capital projects.

Chairman Haydon said the first item of old business was a report regarding a proposed Committee Policy Statement relating to review of unbudgeted projects. He said several months ago, after receiving a report and recommendations about unbudgeted projects from the Working Group led by the Finance and Administration Cabinet, he

asked Senator Leeper and Representative Damron to work with staff to draft a proposed policy on the issue. He asked Ms. Collins to present the draft policy.

Ms. Collins said she worked with Senator Leeper and Representative Damron on a policy that would parallel the report that was given to the committee several months ago by the Working Group. She said the primary goal of the draft policy is to give agencies some direction as to when they should report unbudgeted projects to the committee. Ms. Collins says the policy makes it clear any unbudgeted project over \$400,000 on state property is a capital project and should be reviewed by the committee.

Senator Jackson made a motion to approve the proposed Committee Policy Statement. The motion was seconded by Senator Leeper and passed by voice vote.

Senator Leeper asked that a copy of the proposed policy statement be sent to all state agencies.

Chairman Haydon said the next item of old business was the financing of the Murray State University (MuSU) Recreation/Wellness Center, a project included in the Governor's FY 2003 spending plan as an agency-funded project. Last month, the committee gave preliminary approval to MuSU to use an alternative funding mechanism for the proposed project. Under the proposal, the City of Murray will issue \$10 million in general obligation bonds, and the City and MuSU will enter into an agreement whereby the City would transfer the bond proceeds to MuSU for facility construction and MuSU will commit to assessing a student fee sufficient to cover all associated debt service. The committee's preliminary approval was contingent upon review of the Memorandum of Agreement (MOA) between the City of Murray and MuSU.

Chairman Haydon called on Tom Denton, Vice President for Administrative Services, MuSU, and Glenn Mitchell, Deputy Secretary, Finance and Administration Cabinet, to discuss the MOA. Mr. Denton said the MuSU Board of Regents has approved the MOA, the Council on Postsecondary Education has approved the project, and the Murray City Council has acted on a inducement resolution. Mr. Mitchell said Finance Secretary Flanery has also approved the agreement.

Senator Jackson made a motion to approve the MOA. The motion was seconded by Representative Marcotte and passed by voice vote.

Chairman Haydon then asked Bill Hintze and Armond Russ, Commissioner of the Department for Facilities Management, to present the monthly Finance and Administration Cabinet project report.

Mr. Hintze reported an allocation of \$120,000 from the Emergency Repair, Maintenance and Replacement Fund for the Department of Corrections. The funds will

be used to design a roof repair/replacement project at the Green River Correctional Complex in Muhlenberg County. Mr. Hintze said this facility began experiencing major roof problems shortly after the state took occupancy in 1994. The roof replacement project was included in the Governor's budget recommendation in both the 2002 Regular Session and the 2002 Extraordinary Session at a scope of \$2.5 million in bond funds. However, he said no bond-funded projects were permitted to move forward under the Governor's spending plan. Mr. Hintze said if a budget is enacted during the next session that includes this project, the Emergency Fund will be reimbursed.

Senator Leeper asked if there is any recourse from the contractors that did the faulty construction. Commissioner Russ said most of the problems occurred within one year after the Department took occupancy. He said they did try to go after the contractor for faulty work still under warranty, but the contractor went bankrupt. He said the Department's legal staff worked with the contractor and the architect for three to four years to negotiate some form of reimbursement, but concluded there is no legal remedy. He said the roofs need to be repaired/replaced before the buildings begin to experience severe structural damage and indoor air quality problems.

Mr. Hintze next reported an \$86,000 allocation from the Emergency Fund for a structural study and repair of the Pikeville Senior Citizens Center. Mr. Hintze said this center was constructed at a scope of \$237,000 as part of a construction pool authorized by the 1990 General Assembly. He said the building has a settlement problem, damage has occurred, and more is certain to occur if they do not take remedial action.

Senator Leeper asked if there is any potential for insurance reimbursement for this project. Mr. Hintze said if they receive any insurance payments, it would be used to fully reimburse the Emergency Fund. However, he noted the contractors are not liable because there were no contractor or design problems; the site was flawed.

In response to another question from Senator Leeper, Commissioner Russ said on certain sites if they suspect problems, a very extensive subsurface investigation is done, but they did not do this prior to building the center. He explained that this is not a large building, and there were no indications of problems.

Chairman Haydon said Emergency projects are to be reported to the committee, but no further action is required.

Mr. Hintze reported a \$964,000 federally-funded scope increase for the Helicopter Repair Hangar project at Bluegrass Station in Lexington. The funds will be used for construction of a larger facility.

Senator Jackson made a motion to approve the scope increase. The motion was seconded by Representative Marcotte and passed by voice vote. The revised project scope is \$2,000,000.

Mr. Hintze reported a \$460,000 scope increase for the Thomson–Hood Veterans Center project in Jessamine County. The funds will be used to renovate/relocate the special care unit in the facility. Mr. Hintze said the scope increase will be funded with unbudgeted restricted agency funds (\$161,000) and federal VA funds (\$299,000). This project was originally approved by the committee in October 2001 as an unbudgeted project at a scope of \$2,100,000.

Representative Damron asked if this scope increase will impact receipts that would be necessary for the operation of this facility or the other two veterans centers at Hanson and Hazard. Mr. Hintze said it would not; the Department of Veterans' Affairs has agency receipts well in excess of what is needed to operate its facilities.

Representative Damron asked if the agency funds for each facility are segregated and budgeted for individual facility operations. Mr. Hintze responded that the funds are bundled together for budget purposes. He said the bulk of receipts are from the Thomson–Hood Veterans Center.

Representative Damron said in a recent Veterans' Affairs Subcommittee meeting, it was noted that the Hazard facility was well below its capacity. He asked if the excess funds that have been appropriated for that facility will help to offset the scope increase at Thomson–Hood. Mr. Hintze said potentially they would.

In response to another question from Representative Damron, Mr. Hintze said none of the excess funds will be used to address the budget deficit.

Representative Marcotte made a motion to approve the scope increase. The motion was seconded by Senator Jackson and passed by voice vote. The revised project scope is \$2,560,000.

Mr. Hintze reported that the Department of Parks plans to initiate an unbudgeted capital project to create a pool of funds in the amount of \$2.9 million for the purchase of property to create the Pine Mountain Trail State Park. Mr. Hintze said the project scope is comprised of \$1.4 million in federal funds from the Land and Water Conservation Fund, \$600,000 in state funds from the Kentucky Heritage Land Conservation Fund, and \$200,000 from an Appalachian Regional Commission (ARC) grant. He said they will also receive \$500,000 from the federal TEA–21 allocation (federal transportation money).

Representative Damron asked if a study was made as to the amount of economic activity that the Pine Mountain Trail will generate, in order to offset the loss of property taxes. Mr. Bob Bender, Department of Parks, said as a part of the ARC grant, approximately \$88,000 will be utilized by a research team from the University of Kentucky to prepare an economic impact study related to this project. He said the study is not available yet, but once it is available, it will be shared with the committee.

In response to a question from Representative Damron, Mr. Bender said the state has not acquired any property yet, but during a recent public meeting in Pikeville, those in opposition to the project were in the minority.

Representative Damron asked if the state has held any meetings in the Middlesboro and Pineville areas. Mr. Bender said other meetings will be scheduled in each of the three other counties involved in the project. Mr. Bender said part of the effort is to obtain local input on the boundaries of the trail project. He said they will keep the committee informed of the outcomes of the public meetings. He said they plan to hold two public meetings in each of the counties involved.

Representative Damron asked that they also keep Representative Rick Nelson informed of the process, as it is a big issue for his district also.

Senator Jackson made a motion to approve the unbudgeted project. The motion was seconded by Representative Marcotte and passed by voice vote.

Mr. Hintze next reported a land acquisition project for the Department of Fish and Wildlife Resources. The Finance and Administration Cabinet has allocated \$507,200 from the Heritage Land Conservation Fund to the Department for the acquisition of 573 acres in Ballard County known as Burnt Pond and Waller/Ben Tracts.

Senator Leeper made a motion to approve the allocation. The motion was seconded by Senator Jackson and passed by voice vote.

Mr. Hintze next reported a \$500,000 unbudgeted project for the Department of Fish and Wildlife Resources. Mr. Hintze said the Department plans to establish a Living Stream exhibit at the Salato Center in Frankfort. The project will be funded through the Fish and Wildlife Foundation. The sources of Foundation funds are: \$300,000 from Toyota, \$10,750 in federal funds, and \$189,250 from the Ashland Oil Federal Environmental Compliance Fine.

Senator Leeper asked why the Foundation designed and managed the project rather than going through the normal competitive bid process. Mr. Charles Bush, Department of Fish and Wildlife Resources, said they looked locally and nationally for contractors, but they did not go through the state procurement process.

Senator Jackson made a motion to approve the project. The motion was seconded by Representative Damron and passed by voice vote.

Mr. Hintze reported that the Finance and Administration Cabinet is requesting an allocation of \$3,735,000 from the Capital Construction and Equipment Purchase Contingency Account for a cost overrun on the Eastern Kentucky Exposition Center project in Pike County. This project was authorized by the 1998 General Assembly at a scope of \$12,500,000 and reauthorized with additional funds of \$10,400,000 from the 2000 session and \$2,000,000 from the Governor's FY 03 spending plan. The current authorization includes both state funds and coal severance funds.

Mr. Hintze said the project has been through two rounds of bids already. During the first round, the bids came in \$8 million over budget. The project was redesigned and rebid and was still over budget. Mr. Hintze said the contingency allocation will permit award of the low construction bid, including two add alternates for meeting rooms. He said this project is different from many other community development projects and most of the coal severance projects that had been funded previously because this one has an underlying statutory base ratified by the General Assembly.

Mr. Hintze introduced Mr. Roger Recktenwald, Director, Kentucky Infrastructure Authority, and a member of the Eastern Kentucky Exposition Center Corporation Board, to further discuss the project. Mr. Recktenwald said the corporation's board sought the expertise of various people in the Commonwealth regarding the convention centers, and met with the Kentucky Fair and Exposition Center staff multiple times. Mr. Recktenwald said they also met with people in other locales across the country in a similar venue, dealing with a similar rural population. He said they were devastated when the bids came in over budget the second time after significant work with the architect to reduce the scope. He asked the committee to consider the impact this facility will have on the entire eastern side of the Commonwealth.

Representative Damron asked why this project is not similar to the Rupp Arena project, which also needs significant additional state funds for a renovation project that is now underway.

Mr. Hintze explained that the Rupp Arena project is not a state-owned project. It is not chartered under state statute, and the funding sources for Rupp Arena have not involved the mix of funds this project involves. He said the Rupp Arena project involves a substantial amount of local funds. The Eastern Kentucky Exposition Center is not a city or a county facility, and this project does not have any other recourse; it has been bid twice and came in over bid both times.

Mr. Hintze said the Rupp Arena project is awaiting the \$15,000,000 installment of state bond funds that did not materialize since the 2002–04 budget has not been adopted. Funds in that amount do not exist in the contingency account or the emergency account, nor does the authority exist to extend funds to Rupp Arena since it is not a state-owned project. In contrast, the state does have the authority to recommend funding for the exposition center.

Representative Damron asked what is the estimated amount of additional funds needed to open the facility. Mr. Hintze said beyond the allocation from the contingency fund, there are no known additional construction costs associated with the facility. Mr. Recktenwald added that all basic equipment, including furnishings and seating, is in place.

Representative Damron noted the garage level under the arena floor was eliminated from design in an attempt to bring the project within budget, and asked about the impact of that measure. Commissioner Russ said by eliminating the parking garage, they saved about \$2 million. He said although the garage would have paid for itself in parking fees over the long term, it was eliminated to bring the project within scope. Even without the parking garage, there will be adequate parking in the open lots surrounding the building. The eliminated garage was for special parking for senior citizens and handicapped people and for storage of large vehicles.

Representative Damron noted that approximately \$25 million has been committed for this project, but not spent. He asked how the interest earned on those funds is being used and whether such earnings could be used to reduce the amount needed from the Contingency Account. Mr. Hintze said that money is dedicated under KRS Chapter 154 to the corporation for its operation costs.

In response to another question from Representative Damron, Mr. Hintze said the exposition center will be self-supporting, and responsible for the ongoing maintenance and operations of the facility once it is built.

Representative Damron asked if the Pike County Judge Executive is still opposed to the project. Mr. Recktenwald said she is, but the City of Pikeville made the site available at no cost to the project.

In response to another question from Representative Damron, Mr. Hintze said over \$12 million in coal severance funds has been put in this project, but they do not have any plans at present to reimburse the Contingency Fund with coal severance funds. He explained that they view this project as an extension of one of the major projects that have been authorized by the General Assembly and are providing the additional funds as they have on other cost overruns of major state facilities.

Representative Damron asked if the administration considered instead seeking the additional funds from the 2003 General Assembly. Mr. Hintze said the project has already been delayed due to the problems with the first bidding process; the longer they wait, the less chance they will be able to get affordable bids.

Senator Leeper noted this allocation would be the largest single allocation ever made from the Contingency Fund. He asked what was the second largest allocation. Mr. Hintze said the second largest would be for the Kentucky History Center project, which is on the agenda today.

Senator Leeper asked where the money would come from to purchase the items needed to complete the project, such as kitchen equipment, acoustical banners for the concourse, scoreboards, exterior building signage, and meeting room furnishings. Mr. Hintze said that money would come from revenues generated by the corporation once the facility opens or from the interest income they have already received. Commissioner Russ added that those items are operating items that can be purchased and installed as they generate income; they are not necessary or essential for the initial opening of the facility.

Senator Leeper said there are a number of projects the legislature has put on hold because no funding is available. He asked how committee members could rationalize to their constituents spending \$3,735,000 on this project when their local projects are on hold because of lack of funding. Mr. Hintze said this is a project that three different sessions of the General Assembly endorsed and funded, and is at a point where a contract is ready to be awarded with local and state funds. He said it is very unfortunate that dozens, if not hundreds, of other projects cannot be supported at the same time, but they are hopeful that in the next session they can address some of those other projects.

Senator Leeper asked if there is any other local effort to help fund this project other than the use of coal severance funds. Mr. Hintze responded that the land for this project, valued at \$7 million, was donated.

Representative Marcotte asked if Pike County has a hotel bed tax and a tourism group to promote the convention center. Mr. Recktenwald said there is a regional marketing group in place.

Senator Jackson said this a project that has been around for some time. He said it is important to Eastern Kentucky, and needs to get started. He then made a motion to approve the contingency allocation for the exposition center. When that motion was not seconded, Senator Jackson then made a motion that the project be deferred until the committee's December meeting to allow members time to review the project more closely. The motion was seconded by Senator Leeper and approved by voice vote.



Representative Damron explained his no vote. He said he was not sure deferring the project was the right approach. He suggested that if the committee approved the allocation next month, a caveat should be added that the Contingency Fund be replenished with Pike County's future coal severance funds.

Mr. Hintze reported that the Finance and Administration Cabinet is requesting an allocation of \$601,400 from the Capital Construction and Equipment Purchase Contingency Account for a cost overrun on the Kentucky History Center project, which includes the Lieutenant Governor's mansion renovation.

Representative Haydon asked about the urgency of the project. Commissioner Russ said they had hoped to award the renovation work in July, but the bids came in too high, and the project had to be rebid. He said if there is further delay, alternative quarters for the next Lieutenant Governor will have to be found.

Representative Damron said the Lieutenant Governor has a place to live now. He made a motion that this project also be deferred until the committee's December meeting. The motion was seconded by Senator Leeper and passed by voice vote.

The final project report Mr. Hintze presented was an exchange of land by Northern Kentucky University (NKU) and its foundation. Mr. Hintze said NKU will receive two buildings and 5.62 acres across from the NKU Physical Plant Department. The foundation will receive a three and one-half acre parcel at the intersection of Nunn Drive and US 27 (valued at \$500,380). NKU will also receive \$43,380 cash as part of the swap. Representative Haydon said no further action was required for this land acquisition report.

Mr. Ken Clevidence, Associate Vice President, Auxiliary and Campus Services, University of Kentucky (UK), reported a \$1,767,000 federally-funded unbudgeted project to renovate approximately 4,400 square feet of laboratory space in the Agriculture Science Center North Building. Five existing laboratories and a small group of adjacent offices will be renovated. Mr. Clevidence said this project was approved by the Council on Postsecondary Education at its November 4 meeting.

Senator Leeper made a motion to approve the unbudgeted project. The motion was seconded by Representative Damron and passed by voice vote.

Mr. Ken Clevidence next reported that the university plans to move the proposed Swine Development and Training Center (an unbudgeted project approved by the committee in June 2000) from its initially planned site at Princeton to the Woodford County Agricultural Research Center. Funds already expended at the Woodford facility will be counted as the university's match for federal funding. (The university received a federal grant of \$900,000 for the facility's construction to be matched with \$900,000 in

agency funds.) Chairman Haydon said this was an information report, and no further action is required for this project.

Mr. Clevidence said in October 2001, the committee approved combining the Biomedical Biological Sciences Research Building and the Building Connectors II project for a combined scope of \$67.2 million. He said the university now finds it necessary to increase the scope of the project by \$6,390,175. The source of funds for the scope increase are as follows: \$3,145,300 from debt service reallocation; \$302,300 interest income on UK bonds; and \$2,942,575 from non-recurring fund balances.

Representative Damron asked what was UK's plans originally for the \$2.9 million dollars in fund balances. Mr. Clevidence said the funds that will be reallocated to cover this research center overrun were from the Medical Center, the University Research Foundation, and the main campus provost area. He said they have a meeting scheduled for Thursday morning with the university's president to more specifically identify how much will be allocated from each source. Mr. Clevidence said those funds are not coming from staff raises, health insurance benefits or staffing reductions.

Representative Damron made a motion to approve the scope increase subject to the information concerning fund sources being transmitted to the committee at the earliest opportunity. The motion was seconded by Representative Marcotte and passed by voice vote.

Lastly, Mr. Clevidence discussed the reconstruction of the Administration Building, which was damaged by fire last year. He said the university plans to begin construction sometimes in February 2003. The completed project will consist of 36,000 square feet and will include administrative offices, a visitor center, a smart classroom, and a large public room that originally housed a chapel. The university is finalizing a contract with Messer Construction Company under a construction manager at-risk agreement. The current scope is \$16,075,000, and the university has recovered to date \$7,900,000 from insurance; the balance of funding will come from private sources. The project is to be completed by March 2004.

The Division of Real Properties submitted two lease amortization reports for improvements to be made under \$50,000: PR-3882, Revenue Cabinet in Franklin County, and PR-3887, Kentucky State Police in Laurel County. Also submitted was a report of state leases with square footage modifications for the period July through September 2002. These reports did not require committee action.

Chairman Haydon said five waterline projects are now being processed by the Kentucky Infrastructure Authority. He said these projects received conditional approval from the committee last January, the local recipients have now met the conditions set by the Authority, and no further action is required at this time. The projects include: Casey

County Water District; three Judy Water Association projects; and Northeast Woodford County Water District, Redd Road.

Ms. Terry Fugate, Office of Financial Management, presented the agency's bond activity report. She first reported a new bond issue: Kentucky Housing Corporation (KHC) Housing Revenue Bonds, 2002 Series, in an amount not to exceed \$90,000,000. The proceeds will be used to provide mortgage financing for first-time low and moderate income Kentucky home buyers and to potentially refund other bonds.

Representative Damron made a motion to approve the KHC bond issue. The motion was seconded by Senator Leeper.

Ms. Fugate next presented another new bond issue: Kentucky Economic Development Finance Authority (KEDFA) Hospital Facilities Revenue Bonds, for the Catholic Health Care Partners, not to exceed \$40,000,000. The proceeds will be used to provide for health care facilities in several different locations in the state.

Representative Marcotte made a motion to approve the KEDFA bond issue. The motion was seconded by Senator Leeper and passed by voice vote.

Also included in the agency's bond activity report were three follow-up reports for bonds previously issued: KEDFA College Refunding and Improvement Revenue Bonds, Series 2002 (Centre College project), \$40,000,000; Kentucky Asset/Liability Commission General Fund Tax and Revenue Anticipation Notes, 2002 Series A (Fixed Rate), 2002 Series B (Index Rate), and 2002 Series C (Index Rate) \$500 million; and KIA Composite Issue: Wastewater Revolving Fund Program, Revenue Refunding Bonds, 2002 Series H; Revolving Fund Program, Revenue Refunding Bonds, 2002 Series N, OT (Taxable), and O (AMT); and Solid Waste Revolving Fund Program, Revenue Refunding Bonds, 2002 Series F, \$16,875,000. These bond issues were approved at previous committee meetings and did not require committee action.

Lastly, Ms. Fugate reported six new bond issues with School Facilities Construction Commission (SFCC) debt service participation: Clay County; Larue County; McCreary County (2); Ohio County; and Wayne County.

Senator Leeper made a motion to approve the school bond issues with SFCC debt service participation. The motion was seconded by Representative Marcotte and passed by voice vote. Representative Damron abstained from the vote, citing a potential conflict of interest.

Chairman Haydon noted there were two new school bond issues before the committee this month that are 100% locally-funded: McCreary County and Nelson

County. He said staff has reviewed each, and reported that all disclosure information is included. No further action was required.

Chairman Haydon said he has asked the Finance Cabinet to provide the committee with a report at its December 17 meeting on their experience using the design-build construction delivery method. He said the committee will meet in Frankfort at the new Kentucky Higher Education Assistance Authority Building, which was constructed under the alternative construction method.

With there being no further business, Representative Marcotte made a motion to adjourn the meeting. The motion was seconded and approved by voice vote. The meeting adjourned at 2:40 p.m.